

CHARLES T. ZIMMERMAN

IBLA 83-123

Decided August 2, 1983

Appeal from decision of the Montana State Office, Bureau of Land Management, rejecting noncompetitive over-the-counter oil and gas lease offer M 55634.

Reversed and remanded.

1. Oil and Gas Leases: Applications: Generally--Oil and Gas Leases:
Applications: Filing

Where a noncompetitive oil and gas lease offeror submits one official lease offer form and four photocopies which are exact reproductions of the front of the lease form, but fails to reproduce the reverse side of the lease form, he has not met the requirements of 43 CFR 3111.1-1(a), which specifies that five copies of the official form, or valid reproduction thereof, must be filed. However, failure to submit copies of the reverse side of the form is a curable defect under 43 CFR 3111.1-1(e)(4), and BLM must give the offeror an opportunity to comply with 43 CFR 3111.1-1(a).

APPEARANCES: Laura L. Payne, Esq., Denver, Colorado, for appellant.

OPINION BY ADMINISTRATIVE JUDGE GRANT

Charles T. Zimmerman appeals from a decision of the Montana State Office, Bureau of Land Management (BLM), dated September 30, 1982, rejecting his oil and gas lease offer M 55634, because the offer was in violation of 43 CFR 3111.1-1. The BLM decision stated: "Four copies of your offer were not exact reproductions of the official form. You did not copy the back of

the official form which contains the lease terms." ^{1/} The governing regulation, 43 CFR 3111.1-1(a), provides as follows:

(a) Application--(1) Forms. Except as provided in Subpart 3112, to obtain a noncompetitive lease an offer to accept such lease must be made on a form approved by the Director, "Offer to lease and lease for oil and gas," or on unofficial copies of that form in current use: Provided, That the copies are exact reproductions of one page of both sides of the official approved one page form and are without additions, omissions or other changes or advertising. The official form or a valid reproduction of the official form will also constitute the lease when signed by the Authorizing officer of the Proper Office. Each offer must be filled in by typewriter or printed plainly in ink and signed in ink by the offeror or the offeror's duly authorized attorney-in-fact or agent. Five copies of the official form, or valid reproduction thereof, for each offer to lease shall be filed in the proper office (see § 3000.5 of this chapter). For the purpose of this part an offer will be considered filed when it is received in the proper office during business hours.

The regulation dealing with curable defects in oil and gas lease offers, 43 CFR 3111.1-1(e), states in pertinent part:

(e) Curable defects. An offer to lease containing any of the following deficiencies will be approved by the signing officer provided all other requirements are met:

* * * * *

(4) An offer on a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing.

On appeal, appellant's major contention is that his failure to copy both sides of the official form for four of the five copies of his lease offer is a defect which BLM should have permitted him to cure pursuant to the provisions of 43 CFR 3111.1-1(e)(4). Thus, the issue is whether the fact that four of the five offer forms tendered did not include a copy of the back side of the official offer form may be treated as a curable defect.

[1] The regulation at 43 CFR 3111.1-1(a) requires the submission of five copies of the official oil and gas lease offer form, or valid reproductions thereof. Appellant submitted one executed copy of the official lease offer form and four photocopies of the front of the completed form. The reverse sides of the photocopies are blank. The regulation requires that the approved form may be reproduced provided that the copies are exact

^{1/} BLM also rejected appellant's oil and gas lease offer M 55634 in part because the oil and gas rights in some of the lands included in this offer are not owned by the United States. Appellant did not question the correctness of this portion of BLM's decision in his statement of reasons and therefore BLM's decision on this matter is final. See 43 CFR 4.412.

reproductions of one page of both sides of the official approved one page form. This same information is also recited at the bottom of the lease form itself.

Appellant asserts that failure to submit a reproduction of the reverse side of the form is a curable defect. One of the curable defects listed in 43 CFR 3111.1-1(e) is: "An offer on a form not correctly reproduced provided it contains the statement that the offeror agrees to be bound by the terms and conditions of the lease form in effect at the date of filing."

Appellant submitted five exact copies of the front page of the lease form. The following provision appears on the front page: "8. If this lease does not contain all of the terms and conditions of the lease form in effect at the date of filing, the offeror further agrees to be bound by the terms and conditions contained in that form." We find that by the terms of this provision, appellant has agreed to be bound by the terms and conditions of the currently approved lease form as required by 43 CFR 3111.1-1(e)(4). Therefore, appellant's defect is curable. Richard F. Carroll, 71 IBLA 307 (1983).

We remand this case to BLM for the signing officer to approve the offer in accordance with 43 CFR 3111.1-1(e), provided all other requirements are met. We direct BLM to allow appellant a reasonable, definite amount of time in which to submit a lease offer which meets the requirements of 43 CFR 3111.1-1(a). If appellant chooses to submit photocopies of the lease form, such photocopies must be "exact reproductions of one page of both sides of the official approved one page form." 43 CFR 3111.1-1(a). Thus, the front and back of the form must be reproduced on each side of a single sheet of paper. The four copies must be exactly the same as the original. Appellant must submit five copies of the official form, or valid reproductions thereof, within the time specified by BLM. If the offer is acceptable, BLM will consider the offer to have been filed on the date the original offer was filed, June 24, 1982. Failure to comply with the requirements of 43 CFR 3111.1-1(a) will result in rejection of appellant's lease.

Therefore, pursuant to the authority delegated to the Board of Land Appeals by the Secretary of the Interior, 43 CFR 4.1, the decision appealed from is reversed and the case is remanded to BLM for further action consistent with this opinion.

C. Randall Grant, Jr.
Administrative Judge

We concur:

Edward W. Stuebing
Administrative Judge

Anne Poindexter Lewis
Administrative Judge

